

Message Text

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70

ACTION ARA-10

INFO OCT-01 ISO-00 AID-05 CIAE-00 COME-00 EB-07 FRB-01

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CIEP-02 LAB-04 SIL-01 OMB-01 DODE-00 PM-04 H-02 L-03

NSC-05 PA-02 PRS-01 SS-15 STR-04 CEA-01 /103 W

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SUBJECT: DECREE 789: RESPONSIBILITY FOR DECISING ON FOREIGN
PRIVATE INVESTMENTS IS CENTRALIZED IN MINISTRY OF INDUSTRIES,
COMMERCE AND INTEGRATION

REFS: (A) QUITO 6835; (B) QUITO 6838

1. THIS IS THE LAST OF OUR SERIES OF CABLES REPORTING THE
NEW ECONOMIC DECRSS ANNOUNCED BY THE GOE SEPTEMBER 11 (REF A).
DECREE 789 CENTRALIZES IN THE MINISTRY OF INDUSTRIES, COMMERCE
AND INTEGRATION (ICI) RESPONSIBILITIES FOR HANDLING FOREIGN
PRIVATE INVESTMENT MATTERS. THESE RESPONSIBILITIES UNTIL
NOW HAVE BEEN INVESTED IN SEVERAL DIFFERENT MINISTRIES AND
AGENCIES, THUS COMPLICATING THE PROCEDURE FOR DECIDING UPON
SUCH MATTERS. DECREE 789 IS IN EFFECT A COMPANION TO DECREE 788
(REF B), WHICH ESTABLISHES A "COUNCIL FOR FOREIGN INVESTMENT"
CHAIRMANED BY THE MINISTER OF ICI.

2. FOLLOWING IS OUR INFORMAL TRANSLATION OF THE TEXT OF
DECREE 789 AS PUBLISHED IN A GOE PRESS RELEASE SEPTEMBER 11:
"GENERAL GUILLERMO RODRIGUEZ LARA, PRESIDENT OF THE
REPUBLIC, CONSIDERING: THAT FOR THE APPLICATION OF
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SUPREME DECREE 974, JUNE 30, 1971, PUBLISHED IN THE OFFICIAL

REGISTER NO. 264, JULY 12, 1971 (IE., DECISION 24 OF THE ANDEAN PACT), IT IS NECESSARY TO ESTABLISH A CLEAR, FLEXIBLE AND HARMONIOUS PROCEDURE IN ORDER TO AUTHORIZE DIRECT FOREIGN INVESTMENT; THAT IN ORDER TO OBTAIN THE ABOVE INDICATED OBJECTIVE IT IS NECESSARY TO GIVE THE MINISTRY OF INDUSTRIES, COMMERCE AND INTEGRATION (ICI) ALL THE NECESSARY AUTHORITY TO AUTHORIZE FOREIGN INVESTMENT IN ECUADOR IN CONFORMITY WITH THE ANDEAN PACT'S COMMON REGIME FOR THE TREATMENT OF FOREIGN CAPITAL AND TRADEMARKS, PATENTS, LICENSES AND ROYALTIES (EMBASSY NOTE: WE USE HEREAFTER THE TERM "DECISION 24" IN LIEU OF THE TERM "COMM REGIME, ETC".); AND THAT IT IS NECESSARY TO MODIFY SEVERAL CLAUSES OF SUPREME DECREE NO. 387 OF MAY 14, 1975, PUBLISHED IN THE OFFICIAL REGISTER NO. 809, MAY 23, 1975, AND SUPREME DECREE NO. 457, JUNE 3, 1975, PUBLISHED IN THE OFFICIAL REGISTER NO. 821, JUNE, 1975, DECREE:

ARTICLE 1: THE MINISTRY OF INDUSTRIES, COMMERCE AND INTEGRATION WILL BE THE NATIONAL ORGANIZATION TO GRANT ALL AUTHORIZATIONS REQUIRED BY DECISION 24 AND TO APPROVE AGREEMENTS FOR TRANSFORMATION OF FOREIGN COMPANIES INTO NATIONAL OR MIXED COMPANIES. IN THOSE MATTERS REFERRED TO IN ARTICLES 14 AND 16 OF DECISION 24, THE NATIONAL ORGANIZATION IN CHARGE WILL BE THE CENTRAL BANK OF ECUADOR.

ARTICLE 2: THE MINISTRY OF ICI AND THE CENTRAL BANK OF ECUADOR WILL PROMULGATE ACCORDS, RESOLUTIONS AND REGULATIONS FOR THE APPLICATION OF DECISION 24 FOR MATTERS UNDER THEIR JURISDICTIONS. THESE MUST BE PUBLISHED IN THE OFFICIAL REGISTER.

ARTICLE 3: THE MINISTRY OF INDUSTRIES, COMMERCE AND INTEGRATION THROUGH THE SUBSECRETARY OF COMMERCE WILL GRANT THE AUTHORIZATIONS REQUIRED UNDER DECISION 24 AND WILL APPROVE THE AGREEMENTS FOR TRANSFORMATION FROM FOREIGN FIRMS INTO NATIONAL OR MIXED COMPANIES.

ARTICLE 4: INVESTMENTS BY FOREIGNERS NOT QUALIFYING AS DIRECT FOREIGN INVESTMENTS WILL BE INVESTIGATED AND RESOLVED BY THE MINISTRY OF ICI THROUGH THE SUBSECRETARY OF COMMERCE.

ARTICLE 5: THE CENTRAL BANK OF ECUADOR WILL REGISTER FOREIGN INVESTMENTS AUTHORIZED BY THE COMPETENT NATIONAL ORGANIZATION AND WILL AUTHORIZE TRANSFER IN FULLY CONVERTIBLE CURRENCY
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OF THOSE AMOUNTS THAT FOREIGN INVESTORS ARE ALLOWED PENDING THE REQUEST IN CONFORMANCE WITH DECISION 24 AND NATIONAL LAWS. LIKEWISE THE CENTRAL BANK WILL CENTRALIZE STATISTICAL AND ACCOUNTING RECORDS RELATING TO DIRECT FOREIGN INVESTMENT.

ARTICLE 6: THE SUPERINTENDENT OF COMPANIES AND BANKS IN THE AREA OF HIS RESPECTIVE JURISDICTION WILL CONTROL IMPLEMENTATION OF AGREEMENTS FOR TRANSFORMATION THAT FOREIGN FIRMS HAVE REGISTERED WITH THE NATIONAL ORGANI-

ZATION IN CONFORMITY WITH THE REQUIREMENTS OF DECISION 24.
ARTICLE 7: IN REGARD TO THOSE ACCORDS AND RESOLUTIONS
PROMULGATED BY THE MINISTRY OF ICI WHICH ARE REFERRED TO IN
ARTICLES 3 AND 4 OF THE PRESENT DECREE, THE FOREIGN INVESTOR
MAY HAVE RECOURSE TO THE COUNCIL FOR FOREIGN INVESTMENT.
IN REGARD TO RESOLUTIONS OF THE CENTRAL BANK OF ECUADOR
REFERRING TO PROFIT REMITTANCE AND MATTERS ARISING FROM
ARTICLES 14 AND 16 OF DECISION 24, THE FOREIGN INVESTOR
MAY HAVE RECOURSE TO THE MONETARY BOARD. IN REGARD TO ACCORDS
AND RESOLUTIONS OF THE COUNCIL FOR FOREIGN INVESTMENT AND
THE MONETARY BOARD, THE FOREIGN INVESTOR MAY HAVE RECOURSE
TO THE HIGH COMMISSION ON INVESTMENT DISPUTES. FOR THE
ACTIONS OUTLINED ABOVE, 30 DAYS ARE ALLOWED COUNTING FROM
DATE OF NOTIFICATION.

ARTICLE 8: IN DECREE 387 OF MAY 14, 1975, PUBLISHED IN
OFFICIAL REGISTER 809, MAY 23, 1975, WHEREVER IT SAYS
"SUPERIOR COUNCIL OF FOREIGN TRADE", IT WILL SAY THE
"MINISTRY OF INDUSTRIES, COMMERCE AND INTEGRATION".

ARTICLE 9: THE PERIOD REFERRED TO IN ARTICLE 4 OF SUPREME
DECREE 387 OF MAY 14, 1975 (EMBASSY COMMENT: A PERIOD OF 120
DAYS FROM MAY 14, 1975, I.E., UNTIL MID-AUGUST 1975,
FOR THE REGISTRATION OF FOREIGN INVESTMENTS MADE PRIOR TO
JULY 1971) IS EXTENDED UNTIL DECEMBER 31, 1975.

ARTICLE 10: THE SECOND ARTICLE OF SUPREME DECREE 475,
JUNE 3, 1975, PUBLISHED IN THE OFFICIAL REGISTER NO. 821,
JUNE, 1975, WILL NOW STATE: TO ASSIGN AS NATIONAL
ORGANIZATION FOR THE APPLICATION OF DECISION 25 THE
MINISTRY OF ICI, WHICH WILL CONCEDE ALL THE AUTHORIZATIONS
REQUIRED UNDER THIS LAW.

ARTICLE 11: SUPRME DECREE NO. 887, AUGUST 30, 1974, PUBLISHED
IN THE OFFICIAL REGISTER NO. 632, SEPTEMBER 5, 1974, IS
HEREBY REPEALED. (EMBASSY COMMENT: THIS DECREE CHARGED THE
SUPERIOR COUNCIL FOR FOREIGN TRADE WITH IMPLEMENTING DECISION
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24.)

3. AFFAIRS PENDING DECISION AND RESOLUTION OF THE SUPERIOR
COUNCIL ON FOREIGN TRADE WILL HE ATTENDED TO BY THE
MINISTRY OF ICI THROUGH THE SUBSECRETARY OF COMMERCE OR BY
THE COUNCIL FOR FOREIGN INVESTMENT DEPENDING ON THE CASE.
THE MINISTER OF INDUSTRIES, COMMERCE AND INTEGRATION IS
HEREBY CHARGED WITH THE EXECUTION OF THE PRESENT DECREE
EFFECTIVE SEPTEMBER 11 WITHOUT REGARD TO ITS PUBLICATION
IN THE OFFICIAL REGISTER.
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